

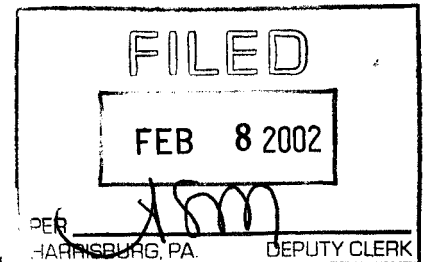
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UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD ACKERMAN, :
 :
 Petitioner :
 : CIVIL NO. 1:CV-01-1048
 v. :
 : (Judge Caldwell)
 JOHN MCCULLOUGH, :
 :
 Respondent :

O R D E R



THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

The Respondent argues that the petition for a writ of habeas corpus filed by Edward Ackerman, a state prisoner, is barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1)(A). He relies on the denial of allowance of appeal by the Pennsylvania Supreme Court on June 6, 2000, which occurred more than one year before June 13, 2001, the filing date of the petition. In opposition, Petitioner asserts that he gave his petition to the prison mail room on May 29, 2001, as evidenced by the date on two cash slips he submitted to pay the \$5.00 filing fee and the postage for mailing. He thus argues that his petition is timely because under Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988), it is considered filed on the date he handed it to prison authorities for mailing.

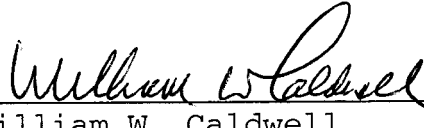
Based on Petitioner's response, we will not dismiss the petition on the basis of the statute of limitations. We note that Respondent has not addressed the merits of the petition. We will grant him twenty days to do so.

Accordingly, this 8th day of February 2002, it is ordered that:

1. Respondent's request in his answer (doc. 11) that the petition be dismissed on the basis of the statute of limitations is denied.

2. Respondent shall have twenty days from the date of this order to comply with paragraphs 3 and 4 of our order of August 23, 2001, on the merits of the petition.

3. Petitioner shall have ten days thereafter to file a reply brief.



William W. Caldwell
United States District Judge